



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: George A. Walrath.

Group Art Unit: 1773

Serial No.: 10/611,767

Examiner: D. Tarazano

Filed: July 1, 2003

Attorney Docket No.: 25323A

For: Extruded Variegated Plastic Siding Panels

AFFIDAVIT UNDER 37 CFR 1.132

Mail Stop Non-Fee Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

I, George A Walrath, being duly sworn, deposes and says;

1. I am a 1977 graduate of Union College with a Masters of Science in Chemistry.

2. I began my professional career with Schenectady Chemicals Inc. in 1970 as a bench Chemist, and have held various positions, including technical director, in the field of polymer Chemistry from about 1970 to present.

3. I began my career with Owens Corning in 2002 as a senior scientist In the Siding Solutions Group, and have worked in the field of siding products at Owens Corning from about 2002 to current, and have worked on variegated siding products since 2002.

4. I have been named as an inventor on approximately 5 U.S. patents and five pending US patent applications.

5. I have read and am familiar with claim 1 of the above-identified U.S. patent application serial number 10/611,767.

6. I understand that the invention defined in claim 1 of the application involves, among other aspects, a variegated polymeric article comprising: a tinted substrate and a substantially clear capstock layer applied onto the tinted substrate. Claim 1 claims the substantially clear capstock layer includes a plurality of accent color streaks and a polymeric capstock material

7. I believe that the inventive method of the pending U.S. patent application, serial number 10/611,767, achieves the goal of producing a U.V. stable variegated siding panel that is unique in the depth of color as it uses the substrate color to provide the base color and the variegation is only in the cap layer, thus providing a 3-dimensional effect of the grain.

8. I have read and am familiar with U.S. Patent No. 5,869,176 to Dorchester et al. As acknowledged by the Examiner, Dorchester et al. disclose a pigmented capstock layer.

9. I am familiar with siding, particularly siding having a capstock; and I agree with the examiner that the Dorchester et al. patent 5,869,176 teaches nothing but the use of a tinted capstock layer (with a background color). The objective of the patent was to display "a realistic wood-grain appearance, in which the simulated wood-grain is strongly accented against the background" (col. 1, lines 31-32)— wherein the background is the colored capstock background color (col. 3, lines 62-64). In each example in Dorchester et al, the capstock has a background color, and in many examples, the background is darker than the variegations (col. 3, lines 54-59). The background color is added to the capstock either through the use of a pigmented base material, the PMS in the color pellets coloring the capstock, or a combination of the two In each case, it is clearly desirable to provide a background color in the capstock to contrast the color of the variegations. No where does Dorchester mention the concept of a substantially clear capstock.

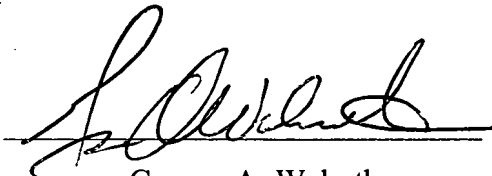
10. Dorchester, like all other capped siding products of which I am aware, utilize a colored capstock to avoid exposure of the substrate layer to protect the capstock from exposure to UV light, and provide visible coloration through the color of the capstock. This is noted in Dorchester in column 6, lines 48-52 where, Dorchester expressly states: “[i]n the preferred system disclosed above, the accent color patterns are introduced into the capstock, since only the capstock forms the externally exposed portion of the siding”.

11. In my opinion, it would not be obvious to one skilled in the art to substantially eliminate the color from the capstock, as the prior art teaches the use of color to improve stability of the product as noted in paragraph 10 above, and in fact, the prior art would teach one away from eliminating color in the capstock, as the fading has been a significant issue in vinyl siding, and any reduction of this protection would be against the teachings of the prior art.

12. My invention achieved surprising results in terms of the depth of color, versus a product with a colored capstock. As evidence of this, I am attaching two samples – a prior art sample with color in the capstock and a second sample to demonstrate my invention, without color in the capstock.

13. As demonstrated in the samples, the invention provides surprisingly excellent depth of color and the ability to achieve a more realistic woodgrain appearance than the prior art.

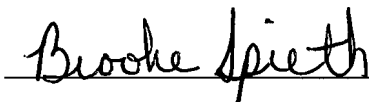
14. I hereby declare that all statements made in this affidavit of my own knowledge are true, and that all statements made on information or belief are believed to be true; and further, all these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application and any patent issued from the application.



George A. Walrath

Sworn and subscribed before me

This 17th day of April, 2007



Notary Public

My commission expires: 5/29/2011



Brooke Spieth
Notary Public, State of Ohio
My Commission Expires

5/29/2011

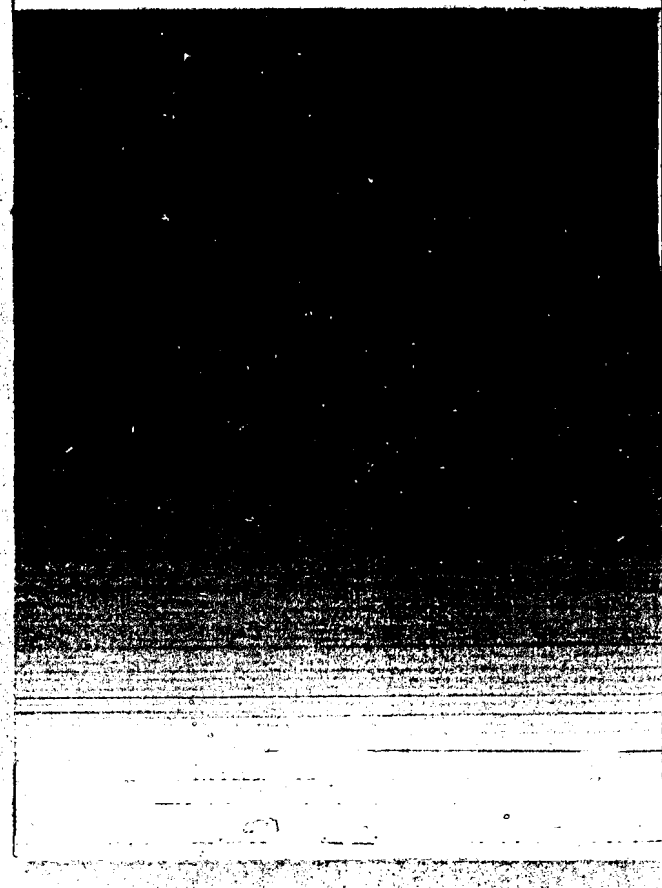
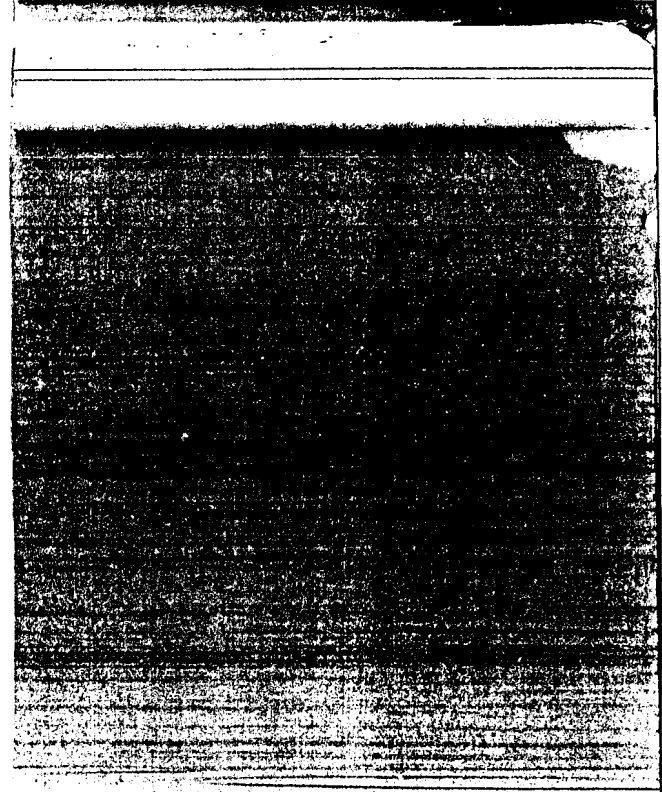
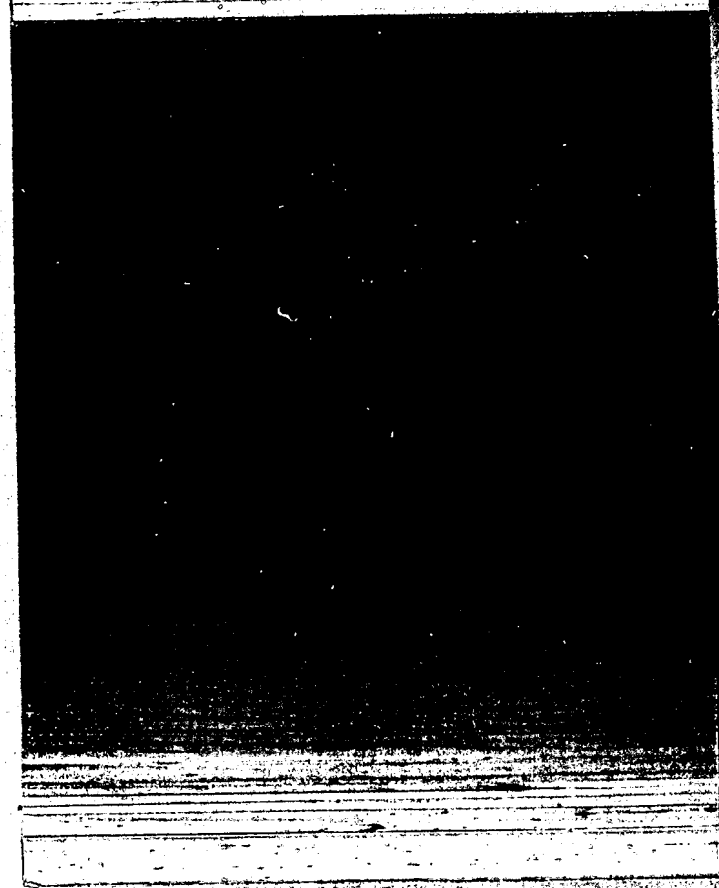
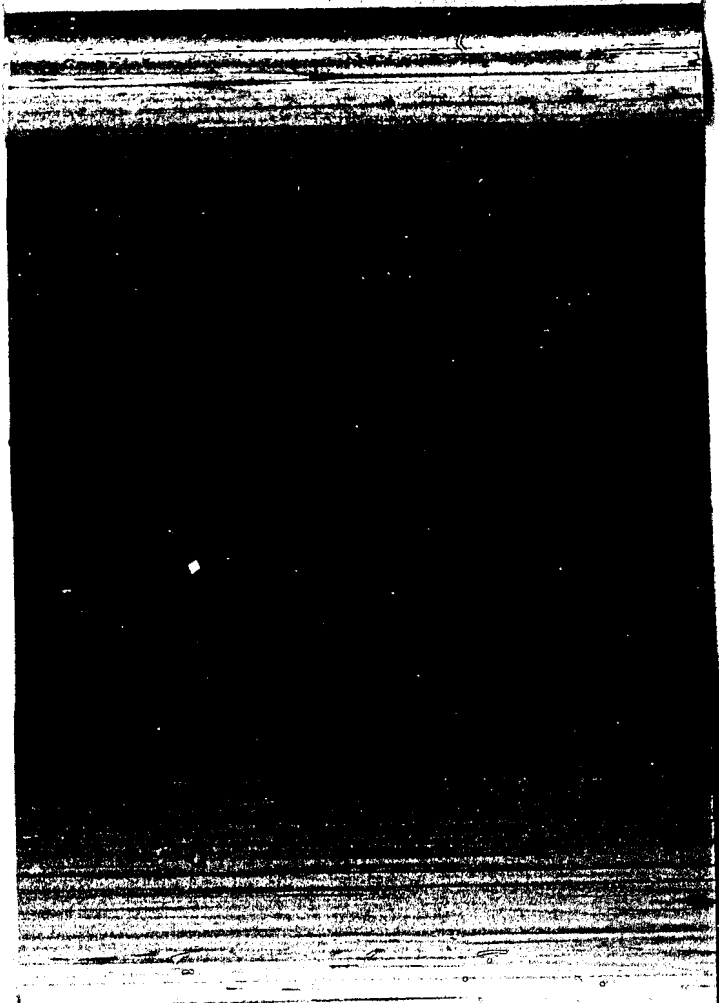
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I I

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P I



INVENTION
"RED OAK"
CLEAR CAP

PRIOR ART
"RED OAK"
TINTED CAP

cu
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cu

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Prior Art
"cherrywood"

TINTED CAP

INVENTION

#1

CHERRYWOOD
2/17/03

Clear Cap